

(4) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(5) certify that farming will be the principal occupation of an individual borrower;

(6) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence. The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and provides justification; and

(7) agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located.

Sec. 14. APPROPRIATION.

\$17,000 in fiscal year 1994 and \$17,000 in fiscal year 1995 is appropriated from the special revenue fund to the commissioner of agriculture for administrative expenses for the loan restructuring program.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:15 p.m.

CHAPTER 343—H.F.No. 555

An act relating to insurance; credit; permitting the sale of credit involuntary unemployment insurance; appropriating money; amending Minnesota Statutes 1992, sections 47.016, subdivision 1; 48.185, subdivision 4; 52.04, subdivision 1; 56.125, subdivision 3; 56.155, subdivision 1; 60K.03, subdivision 7; 60K.19, subdivision 3; 62B.01; 62B.02, by adding a subdivision; 62B.03; 62B.04, by adding a subdivision; 62B.05; 62B.06, subdivisions 1, 2, and 4; 62B.07, subdivisions 2 and 6; 62B.08, subdivisions 1, 3, 4, and by adding subdivisions; 62B.09, subdivision 3; 62B.11; 62B.12; and 72A.20, subdivision 27.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 47.016, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purpose of this section, the following terms have the meanings given them.

(b) "Credit insurance" means credit life ~~and~~, accident and health insurance, and credit involuntary unemployment insurance as defined in section 62B.02.

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(c) "Officer," "director," "employee," and "shareholder" include the spouse and minor children of the officer, director, employee, or shareholder.

(d) "Interest" includes ownership through a spouse or minor children; ownership through a broker, nominee, or agent; and ownership through a corporation, partnership, association, joint venture, or proprietorship.

(e) "Financial institution" means any person who lends money and sells credit insurance to the borrower.

Sec. 2. Minnesota Statutes 1992, section 48.185, subdivision 4, is amended to read:

Subd. 4. No charges other than those provided for in subdivision 3 shall be made directly or indirectly for any credit extended under the authority of this section, except that there may be charged to the debtor:

(a) annual charges, not to exceed \$50 per annum, payable in advance, for the privilege of using a bank credit card;

(b) charges for premiums on credit life ~~and~~ credit accident and health, and credit involuntary unemployment insurance if:

(1) the insurance is not required by the financial institution and this fact is clearly disclosed in writing to the debtor; and

(2) the debtor is notified in writing of the cost of the insurance and affirmatively elects, in writing, to purchase the insurance;

(c) charges for the use of an automated teller machine when cash advances are obtained pursuant to this section through the use of an automated teller machine;

(d) in the case of a financial institution referred to in subdivision 1 that does not charge an annual fee, delinquency and collection charges as follows:

(1) on each payment in arrears for a period not less than ten days, in an amount not in excess of the delinquency and collection charge permitted in section 168.71;

(2) for any monthly or other periodic payment period where the debtor has exceeded or thereby exceeds the maximum approved credit limit under the open-end loan account arrangement, in an amount not in excess of the service charge limitations in section 332.50; and

(3) for any returned check or returned automatic payment withdrawal request, in an amount not in excess of the service charge limitation in section 332.50; and

(e) to the extent not otherwise prohibited by law, charges for other goods or services offered by or through a financial institution referred to in subdivision 1

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which the debtor elects to purchase, including, but not limited to, charges for check and draft copies and for the replacement of lost or stolen cards.

Sec. 3. Minnesota Statutes 1992, section 52.04, subdivision 1, is amended to read:

Subdivision 1. A credit union has the following powers:

(1) to offer its members and other credit unions various classes of shares, share certificates, deposits, or deposit certificates;

(2) to receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other thrift organizations within its membership. Trust funds received by a real estate broker or the broker's salespersons in trust may be deposited in a credit union;

(3) to make loans to members for provident or productive purposes as provided in section 52.16;

(4) to make loans to a cooperative society or other organization having membership in the credit union;

(5) to deposit in state and national banks and trust companies authorized to receive deposits;

(6) to invest in any investment legal for savings banks or for trust funds in the state and, notwithstanding clause (3), to invest in and make loans of unsecured days funds (federal funds or similar unsecured loans) to financial institutions insured by an agency of the federal government and a member of the Federal Reserve System or required to maintain reserves at the Federal Reserve;

(7) to borrow money as hereinafter indicated;

(8) to adopt and use a common seal and alter the same at pleasure;

(9) to make payments on shares of and deposit with any other credit union chartered by this or any other state or operating under the provisions of the federal Credit Union Act, in amounts not exceeding in the aggregate 25 percent of its unimpaired assets. However, payments on shares of and deposit with credit unions chartered by other states are restricted to credit unions insured by the National Credit Union Administration. The restrictions imposed by this clause do not apply to share accounts and deposit accounts of the Minnesota corporate credit union in United States central credit union or to share accounts and deposit accounts of credit unions in the Minnesota corporate credit union;

(10) to contract with any licensed insurance company or society to insure the lives of members to the extent of their share accounts, in whole or in part, and to pay all or a portion of the premium therefor;

New language is indicated by underline, deletions by ~~strikeout~~.

(11) to indemnify each director, officer, or committee member, or former director, officer, or committee member against all expenses, including attorney's fees but excluding amounts paid pursuant to a judgment or settlement agreement, reasonably incurred in connection with or arising out of any action, suit, or proceeding to which that person is a party by reason of being or having been a director, officer, or committee member of the credit union, except with respect to matters as to which that person is finally adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duties. The indemnification is not exclusive of any other rights to which that person may be entitled under any bylaw, agreement, vote of members, or otherwise;

(12) upon written authorization from a member, retained at the credit union, to make payments to third parties by withdrawals from the member's share or deposit accounts or through proceeds of loans made to such member, or by permitting the credit union to make those payments from the member's funds prior to deposit; to permit draft withdrawals from member accounts, but a credit union proposing to permit draft withdrawals shall notify the commissioner of commerce, in the form prescribed, of its intent not less than 90 days prior to authorizing draft withdrawals. The board of directors of a credit union may restrict one class of shares to the extent that it may not be redeemed, withdrawn, or transferred except upon termination of membership in the credit union;

(13) to inform its members as to the availability of various group purchasing plans which are related to the promotion of thrift or the borrowing of money for provident and productive purposes by means of informational materials placed in the credit union's office, through its publications, or by direct mailings to members by the credit union;

(14) to facilitate its members' voluntary purchase of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes including, but not limited to the following types of group or individual insurance: Fire, theft, automobile, life and temporary disability; to be the policy holder of a group insurance plan or a subgroup under a master policy plan and to disseminate information to its members concerning the insurance provided thereunder; to remit premiums to an insurer or the holder of a master policy on behalf of a credit union member, if the credit union obtains written authorization from the member for remittance by share or deposit withdrawals or through proceeds of loans made by the members, or by permitting the credit union to make the payments from the member's funds prior to deposit; and to accept from the insurer reimbursement for expenses incurred or in the case of credit life ~~and~~, accident and health, and involuntary unemployment insurance within the meaning of chapter 62B commissions for the handling of the insurance. The amount reimbursed or the commissions received may constitute the general income of the credit union. The directors, officers, committee members and employees of a credit union shall not profit on any insurance sale facilitated through the credit unions;

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(15) to contract with another credit union to furnish services which either could otherwise perform. Contracted services under this clause are subject to regulation and examination by the commissioner of commerce like other services;

(16) in furtherance of the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes, and not in limitation of the specific powers hereinbefore conferred, to have all the powers enumerated, authorized, and permitted by this chapter, and such other rights, privileges and powers incidental to, or necessary for, the accomplishment of the objectives and purposes of the credit union;

(17) to rent safe deposit boxes to its members if the credit union obtains adequate insurance or bonding coverage for losses which might result from the rental of safe deposit boxes;

(18) notwithstanding the provisions of section 52.05, to accept deposits of public funds in an amount secured by insurance or other means pursuant to chapter 118 or section 9.031;

(19) to accept and maintain treasury tax and loan accounts of the United States and to pledge collateral to secure the treasury tax or loan accounts, in accordance with the regulations of the Department of Treasury of the United States;

(20) to accept deposits pursuant to section 149.12, notwithstanding the provisions of section 52.05, if the deposits represent funding of prepaid funeral plans of members;

(21) to sell, in whole or in part, real estate secured loans provided that:

(a) the loan is secured by a first lien;

(b) the board of directors approves the sale;

(c) if the sale is partial, the agreement to sell a partial interest shall, at a minimum:

(i) identify the loan or loans covered by the agreement;

(ii) provide for the collection, processing, remittance of payments of principal and interest, taxes and insurance premiums and other charges or escrows, if any;

(iii) define the responsibilities of each party in the event the loan becomes subject to collection, loss or foreclosure;

(iv) provide that in the event of loss, each owner shall share in the loss in proportion to its interest in the loan or loans;

(v) provide for the distribution of payments of principal to each owner proportionate to its interest in the loan or loans;

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- (vi) provide for loan status reports;
- (vii) state the terms and conditions under which the agreement may be terminated or modified; and
- (d) the sale is without recourse or repurchase unless the agreement:
 - (i) requires repurchase of a loan because of any breach of warranty or misrepresentation;
 - (ii) allows the seller to repurchase at its discretion; or
 - (iii) allows substitution of one loan for another;
- (22) in addition to the sale of loans secured by a first lien on real estate, to sell, pledge, discount, or otherwise dispose of, in whole or in part, to any source, a loan or group of loans, other than a self-replenishing line of credit; provided, that within a calendar year beginning January 1 the total dollar value of loans sold, other than loans secured by real estate or insured by a state or federal agency, shall not exceed 25 percent of the dollar amount of all loans and participating interests in loans held by the credit union at the beginning of the calendar year, unless otherwise authorized in writing by the commissioner;
- (23) to designate the par value of the shares of the credit union by board resolution;
- (24) to exercise by resolution the powers set forth in United States Code, title 12, section 1757, as amended through August 1, 1985. Before exercising each power, the board must submit a plan to the commissioner of commerce detailing implementation of the power to be used;
- (25) to offer self-directed individual retirement accounts and Keogh accounts and act as custodian and trustee of these accounts if:
 - (1) all contributions of funds are initially made to a deposit, share or share certificate account in the credit union;
 - (2) any subsequent transfer of funds to other assets is solely at the direction of the member and the credit union exercises no investment discretion and provides no investment advice with respect to plan assets; and
 - (3) the member is clearly notified of the fact that National Credit Union Share Insurance Fund coverage is limited to funds held in deposit, share or share certificate accounts of National Credit Union Share Insurance Fund-insured credit unions.

Sec. 4. Minnesota Statutes 1992, section 56.125, subdivision 3, is amended to read:

Subd. 3. **CHARGES.** In addition to the charges authorized in subdivision 1, a licensee may contract for and receive in connection with an open-end loan

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agreement the additional charges, fees, costs, and expenses with respect to the line of credit limit permitted by sections 56.131, subdivisions 1, paragraph (f), clauses (4) and (5), 2, 5, and 6; and 56.155 with respect to other loans, with the following variations:

(1) If credit life ~~or~~, disability, or involuntary unemployment insurance is provided and if the insured dies ~~or~~, becomes disabled, or becomes involuntarily unemployed when there is an outstanding open-end loan indebtedness, the amount of the insurance may not exceed the total balance of the loan due on the date of the borrower's death or on the date of the last billing statement in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance, or during the covered period of involuntary unemployment in the case of credit involuntary unemployment insurance. The additional charge for credit life insurance ~~or~~, credit disability insurance, or credit involuntary unemployment insurance must be calculated in each billing cycle by applying the current monthly premium rate for the insurance to the unpaid balances in the borrower's account.

(2) The amount, terms, and conditions of any credit insurance against loss or damage to property must be reasonable in relation to the character and value of the property insured.

Sec. 5. Minnesota Statutes 1992, section 56.155, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** No licensee shall, directly or indirectly, sell or offer for sale any insurance in connection with any loan made under this chapter except as and to the extent authorized by this section. The sale of credit life ~~and~~, credit accident and health, and credit involuntary unemployment insurance is subject to the provisions of chapter 62B, except that the term of the insurance may exceed 60 months if the term of the loan exceeds 60 months. Life, accident, ~~and~~ health, and involuntary unemployment insurance, or any of them, may be written upon or in connection with any loan but must not be required as additional security for the indebtedness. If the debtor chooses to procure credit life insurance ~~or~~, credit accident and health insurance, or credit involuntary unemployment insurance as security for the indebtedness, the debtor shall have the option of furnishing this security through existing policies of insurance that the debtor owns or controls, or of furnishing the coverage through any insurer authorized to transact business in this state. A statement in substantially the following form must be made orally and provided in writing in bold face type of a minimum size of 12 points to the borrower before the transaction is completed for each credit life ~~and~~, accident and health, and involuntary unemployment insurance coverage sold:

CREDIT LIFE INSURANCE ~~AND~~, CREDIT DISABILITY INSURANCE, AND CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE ARE NOT REQUIRED TO OBTAIN

New language is indicated by underline, deletions by ~~strikeout~~.

CREDIT. YOU MAY BUY ANY INSURANCE FROM ANYONE
YOU CHOOSE OR YOU MAY USE EXISTING INSURANCE.

The licensee shall disclose whether or not the benefits commence as of the first day of disability or involuntary unemployment and shall further disclose the number of days that an insured obligor must be disabled or involuntarily unemployed, as defined in the policy, before benefits, whether retroactive or nonretroactive, commence. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit accident and health or credit unemployment benefits may be procured by or through a licensee upon more than one of the obligors. In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit life insurance may be procured by or through a licensee upon more than two of the obligors in which case they shall be insured jointly. The premium or identifiable charge for the insurance must not exceed that filed by the insurer with the department of commerce. The charge, computed at the time the loan is made for a period not to exceed the full term of the loan contract on an amount not to exceed the total amount required to pay principal and charges, may be deducted from the proceeds or may be included as part of the principal of any loan. If a borrower procures insurance by or through a licensee, the statement required by section 56.14 must disclose the cost to the borrower and the type of insurance, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. No licensee shall decline new or existing insurance which meets the standards set out in this section nor prevent any obligor from obtaining this insurance coverage from other sources. Notwithstanding any other provision of this chapter, any gain or advantage to the licensee or to any employee, affiliate, or associate of the licensee from this insurance or the sale or provision thereof is not an additional or further charge in connection with the loan; nor are any of the provisions pertaining to insurance contained in this section prohibited by any other provision of this chapter.

Sec. 6. Minnesota Statutes 1992, section 60K.03, subdivision 7, is amended to read:

Subd. 7. **EXCEPTIONS.** The following are exempt from the general licensing requirements prescribed by this section:

(1) agents of township mutuals who are exempted pursuant to section 60K.04;

(2) fraternal benefit society representatives exempted pursuant to section 60K.05;

(3) any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer, provided that a licensed agent must participate in the sale of the insurance;

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(4) employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications for insurance;

(5) employees of a creditor who enroll debtors for credit life or, credit accident and health, or credit involuntary unemployment insurance; provided the employees receive no commission or fee for it;

(6) clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums; and

(7) rental vehicle companies and their employees in connection with the offer of rental vehicle personal accident insurance under section 72A.125.

Sec. 7. Minnesota Statutes 1992, section 60K.19, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** This section does not apply to:

(a) persons soliciting or selling solely on behalf of companies organized and operating according to chapter 67A; or

(b) persons holding life and health, or property and casualty licenses who, at the time of license renewal, certify to the commissioner in writing that they will sell only credit life, credit accident and health, credit involuntary unemployment, and credit property insurance, during that year and do in fact so limit their sale of insurance.

Sec. 8. Minnesota Statutes 1992, section 62B.01, is amended to read:

62B.01 SCOPE.

All life insurance ~~and~~, accident and health insurance, and involuntary unemployment insurance in connection with loan or other credit transactions ~~shall be~~ are subject to the ~~provisions of~~ sections 62B.01 to 62B.14, except mortgage life, mortgage accidental death, and mortgage disability insurance. Insurance ~~shall is~~ not be subject to the ~~provisions of~~ sections 62B.01 to 62B.14 where its issuance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor. Credit life ~~and~~, credit accident and health, and credit involuntary unemployment insurance provided at no additional cost to the borrower ~~shall are~~ not be subject to the ~~provisions of~~ sections 62B.01 to 62B.14.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 1992, section 62B.02, is amended by adding a subdivision to read:

Subd. 3a. "Credit involuntary unemployment insurance" means insurance on a debtor in connection with a specified loan or other credit transaction to provide payment to a creditor in the event of involuntary unemployment of the debtor for the installment payments or other periodic payments becoming due while the debtor is involuntarily unemployed.

Sec. 10. Minnesota Statutes 1992, section 62B.03, is amended to read:

62B.03 FORMS OF CREDIT LIFE INSURANCE AND, CREDIT ACCIDENT AND HEALTH INSURANCE, AND CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE.

Credit life insurance ~~and~~, credit accident and health insurance, and credit involuntary unemployment insurance shall be issued only in the following forms:

- (1) Individual policies of life insurance issued to debtors on the term plan;
- (2) Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;
- (3) Individual policies of involuntary unemployment insurance issued to debtors on the term plan;
- (4) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
- ~~(4)~~ (5) Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage;
- (6) Group policies of involuntary unemployment insurance issued to creditors on a term plan insuring debtors.

Sec. 11. Minnesota Statutes 1992, section 62B.04, is amended by adding a subdivision to read:

Subd. 3. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE. The total amount of periodic indemnity payable by credit involuntary unemployment insurance in the event of involuntary unemployment shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments.

Sec. 12. Minnesota Statutes 1992, section 62B.05, is amended to read:

62B.05 TERM OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

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The term of any credit life insurance ~~or~~, credit accident and health insurance, or credit involuntary unemployment insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to the indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and the evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in that event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of the insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor.

If an indebtedness is prepaid in full before its scheduled maturity, except by performance of the insurer's obligation under the policy, the insurance shall be deemed canceled and a refund shall be paid or credited as provided in section 62B.08. Upon prepayment in full, the creditor shall make the refund of unearned premium, unless the credit insurance was originated by a third party, in which case the creditor shall promptly notify the third party who shall make the refund.

Sec. 13. Minnesota Statutes 1992, section 62B.06, subdivision 1, is amended to read:

Subdivision 1. All credit life insurance ~~and~~, credit accident and health insurance, and credit involuntary unemployment insurance shall be evidenced by an individual policy, memorandum copy, or in the case of group insurance by a certificate of insurance, which shall be delivered to the debtor.

Sec. 14. Minnesota Statutes 1992, section 62B.06, subdivision 2, is amended to read:

Subd. 2. Each individual policy or group certificate of credit life insurance, ~~or~~ credit accident and health insurance, or credit involuntary unemployment insurance, shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the rate or amount of payment, if any, by the debtor separately for credit life insurance ~~and~~, credit accident and health insurance, and credit involuntary unemployment insurance, a description of the amount, term and coverage including any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to the debtor, if living, otherwise to a beneficiary, other than the creditor, named by the debtor or, otherwise to the debtor's estate. No individual or group policy of credit accident and health

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insurance or credit involuntary unemployment insurance issued, amended, renewed, or delivered in this state on or after January 1, 1976 shall contain any provision offsetting, or in any other manner reducing any benefit under the policy by the amount of, or in proportion to, any increase in disability or other benefits received or receivable under the federal Social Security Act, as amended subsequent to the date of commencement of such benefit.

Sec. 15. Minnesota Statutes 1992, section 62B.06, subdivision 4, is amended to read:

Subd. 4. If the individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for the policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if any, separately for credit life insurance ~~and~~, credit accident and health insurance, and credit involuntary unemployment insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time the indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subdivision is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date on which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 62B.05. If an application for a policy or a notice of proposed insurance is not delivered at the time the indebtedness is incurred as required by this subdivision, the creditor shall assume all of the liabilities under such insurance until an insurer accepts the risk.

Sec. 16. Minnesota Statutes 1992, section 62B.07, subdivision 2, is amended to read:

Subd. 2. The commissioner shall within 60 days after the filing of policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the premium rates charged or to be charged are excessive in relation to benefits, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any rule promulgated thereunder. In order to determine whether the premium to be charged under a particular policy form submitted by an insurer is excessive in relation to benefits, and to facilitate the submission and approval of policy forms and premium rates to be used in connection therewith, the commissioner shall give full consideration to and make reasonable allowances for underwriting expenses including, but not limited to, claim adjustment expenses, general administrative expenses including costs for handling

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return premiums, compensation to agents, expense allowances to creditors, if any, branch and field expenses and other acquisition costs, the types of policies actually issued and authorized as defined in section 62B.03, (1), (2), (3) ~~and~~, (4), (5), ~~and~~ (6), and any and all other factors and trends demonstrated to be relevant. An insurer may support these factors by statistical information, experience, actuarial computations, and/or estimates certified by an executive officer of the insurer, and the commissioner shall give due consideration to such supporting data.

Sec. 17. Minnesota Statutes 1992, section 62B.07, subdivision 6, is amended to read:

Subd. 6. If a group policy of credit life insurance ~~or~~, credit accident and health insurance, or credit involuntary unemployment insurance

(1) has been delivered in this state before May 28, 1967, or

(2) has been or is delivered in another state before or after May 28, 1967, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subdivisions 2 and 4 of section 62B.06 and the forms shall be approved by the commissioner if they conform to the requirements specified in those subdivisions and if the schedules of premium rates applicable to the insurance evidenced by the certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date this act is effective as provided in section 62B.12.

Sec. 18. Minnesota Statutes 1992, section 62B.08, subdivision 1, is amended to read:

Subdivision 1. An insurer may revise its schedules or premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy ~~or~~, credit accident and health insurance policy, or credit involuntary unemployment insurance policy for which the premium rate exceeds that determined by the schedules of the insurer then on file with the commissioner.

Sec. 19. Minnesota Statutes 1992, section 62B.08, subdivision 3, is amended to read:

Subd. 3. If a creditor requires a debtor to make a payment for credit life insurance ~~or~~, credit accident and health insurance, or credit involuntary unemployment insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

Sec. 20. Minnesota Statutes 1992, section 62B.08, subdivision 4, is amended to read:

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Subd. 4. The amount charged to a debtor for credit life ~~or insurance~~, credit health ~~and~~ accident and health insurance, or credit involuntary unemployment insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined, and any premium charged or collected on a single premium basis shall be submitted to the insurer within 90 days of the month in which said premium is charged or collected.

Sec. 21. Minnesota Statutes 1992, section 62B.08, is amended by adding a subdivision to read:

Subd. 5. With respect to credit involuntary unemployment insurance only, an insurer, subsidiary, or parent of the insurer shall not pay compensation to a creditor or a group policyholder offering credit involuntary unemployment insurance in excess of 30 percent of the net written premiums.

Sec. 22. Minnesota Statutes 1992, section 62B.08, is amended by adding a subdivision to read:

Subd. 6. "Compensation" means any valuable consideration, direct or indirect, paid by or on behalf of the insurer, or by any subsidiary or parent, or subsidiary of the parent of the insurer, or by any other person to whom or on behalf of any group policyholder or creditor or withheld from an insurer by any group policyholder or creditor, including but not limited to: commissions, retrospective commissions, retrospective rate credits, experience refunds, dividends, service fees, expense allowances or reimbursements, gifts, equipment, facilities, goods or services, or any other form of remuneration resulting directly from the sale of credit involuntary unemployment insurance.

Sec. 23. Minnesota Statutes 1992, section 62B.09, subdivision 3, is amended to read:

Subd. 3. Any creditor doing business in the state of Minnesota may, in the same office or place of business where such creditor transacts business, take applications or enrollments for credit life ~~and insurance~~, credit accident and health insurance, or credit involuntary unemployment insurance upon a borrower or purchaser or one of them if there are two or more in connection with the making of a loan or sale.

Sec. 24. Minnesota Statutes 1992, section 62B.11, is amended to read:

62B.11 EXISTING INSURANCE; CHOICE OF INSURER.

When credit life insurance ~~or~~, credit accident and health insurance, or credit involuntary unemployment insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 25. Minnesota Statutes 1992, section 62B.12, is amended to read:

62B.12 ENFORCEMENT RULEMAKING.

The commissioner may, after notice and hearing, issue rules the commissioner deems appropriate for the supervision of sections 62B.01 to 62B.14. ~~On finding that there has been a violation of sections 62B.01 to 62B.14, or any rules issued pursuant thereto, after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, the commissioner shall set forth the details of the findings together with an order for compliance by a specified date. The order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay has been ordered by a court of competent jurisdiction. The provisions of sections 62B.05, 62B.06, 62B.07 and 62B.08, shall not be operative until 90 days after May 28, 1967, and the commissioner may extend by not more than an additional 90 days the initial period within which the provisions of those sections shall not be operative. The commissioner shall promulgate rules to establish rates for credit involuntary unemployment insurance prior to its issuance, and to enact the other provisions of this act, and the commissioner shall report by February 15, 1994, to the house of representatives committee on financial institutions and insurance and to the senate commerce and consumer protection committee on the rules or status of the rulemaking, including the expected loss ratio. The commissioner is not obligated to promulgate a rule unless and until four or more insurers who plan to write credit involuntary unemployment insurance in Minnesota agree to pay for the cost of the promulgation of any rules authorized by this section. Companies selling credit involuntary unemployment insurance shall be assessed by the department to pay the costs of rulemaking.~~

Moneys collected pursuant to this provision must be deposited in the state treasury and credited to a special account and are appropriated to the commissioner for the rulemaking purposes authorized by this section.

For the purposes of chapter 62B, any insurer authorized to offer the coverage specified by section 60A.06, subdivision 1, clause (4), shall be authorized to sell credit involuntary unemployment insurance pursuant to this chapter.

Sec. 26. Minnesota Statutes 1992, section 72A.20, subdivision 27, is amended to read:

Subd. 27. **SOLICITATIONS AND SALES OF INSURANCE PRODUCTS TO BORROWERS.** (a) A loan officer, a loan representative, or other person involved in taking or processing a loan may not solicit an insurance product, except for credit life ~~and, credit disability or, credit involuntary unemployment,~~ mortgage life, mortgage accidental death, or mortgage disability, and except for life insurance when offered in lieu of credit life insurance, from the completion of the initial loan application, as defined in the federal Equal Credit Opportunity Act, United States Code, title 15, sections 1691 to 1691f, and any regulations adopted under those sections, until after the closing of the loan transaction.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) This subdivision applies only to loan transactions covered by the federal Truth-in-Lending Act, United States Code, title 15, sections 1601 to 1666j, and any regulations adopted under those sections.

(c) This subdivision does not apply to sales of title insurance, homeowner's insurance, a package homeowner's-automobile insurance product, automobile insurance, or a similar insurance product, required to perfect title to, or protect, property for which a security interest will be taken if the product is required as a condition of the loan.

(d) Nothing in this subdivision prohibits the solicitation or sale of any insurance product by means of mass communication.

Sec. 27. EFFECTIVE DATE.

Sections 1 to 26 are effective the day following final enactment.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 5:50 p.m.

CHAPTER 344—H.F.No. 1387

An act relating to employment; requiring Occupational Safety and Health Act compliance by certain independent contractors; requiring certain studies and reports on independent contractors; proposing coding for new law in Minnesota Statutes, chapter 182.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [182.6521] INDEPENDENT CONTRACTORS.

An independent contractor doing building construction or improvements in the public or private sector must comply with the occupational safety and health standards that apply under this chapter to an employer and its employees. This section applies to an independent contractor however organized including, without limitation, those organized as a partnership, sole proprietorship, or corporation.

Sec. 2. STUDY; INDEPENDENT CONTRACTORS.

Subdivision 1. UNEMPLOYMENT COMPENSATION. The department of jobs and training shall study the issue of independent contractors and their compliance with unemployment compensation contribution requirements. The department shall report the results of the study along with recommendations for legislation to the policy committees of the legislature having jurisdiction over unemployment compensation matters by February 1, 1994.

New language is indicated by underline, deletions by ~~strikeout~~.